

STATE OF ALASKA
DEPARTMENT OF COMMERCE, COMMUNITY AND ECONOMIC DEVELOPMENT
DIVISION OF CORPORATIONS, BUSINESS AND PROFESSIONAL LICENSING

**ALASKA STATE BOARD OF VETERINARY EXAMINERS
MINUTES OF MEETING
MAY 11, 2018**

By authority of AS 08.01.070(2) and in compliance with the provision of AS 44.62, Article 6, a scheduled meeting of the Board of Veterinary Examiners was held on May 11, 2018 at 333 Willoughby Avenue, 9th Floor – Juneau, AK

**These draft minutes were prepared by the staff of the Division
of Corporations, Business and Professional Licensing.
They have not been reviewed or approved by the board.**

Agenda Item 1 – Call Meeting to Order

Dr. Hagee called the meeting to order on Friday May 11, 2018 for the Board of Veterinary Examiners at 9:02 a.m. This meeting was public noticed on April 13, 2018 in the Anchorage Dispatch News and on the Alaska Public Notice system.

Those present, constituting a quorum of the board were:

James Hagee, DVM, Chairman, Trapper Creek, AK
Hal Geiger, PhD, Secretary, Public Member, Juneau, AK
Rachel Bergartt, DVM, Juneau, AK
Chris Michetti, DVM, Anchorage, AK
Tamara Rose, DVM, Fairbanks, AK

Present from the Division of Corporations, Business and Professional Licensing:

Sara Chambers, Deputy Director
Jeanette Akers, Investigator III
Marilyn Zimmerman, RP Paralegal II
Laura Carrillo, Board of Pharmacy Supervisor & PDMP Manager
Patricia Lonergan, Licensing Examiner

Dr. Hagee welcomed Chris Michetti to the board.

Agenda Item 2 – Review Agenda

Dr. Hagee asked if there was anything members wanted to add to the agenda. Hearing none, he then reviewed with the board that were very time sensitive items on the agenda, and other items that were not time sensitive, he asked the board to consider addressing items earlier than the specific time listed on the agenda as time allows. There were no objections from the board.

Deviated to Agenda Item 4 – Public Comment

Dr. Hagee asked if there were any members of the public in attendance. There were no members of the public in attendance at the meeting, nor did any member of the public call into the meeting.

Deviated to Agenda Item 3 – Review & Approve Prior Meeting Minutes

Dr. Hagee inquired if everyone had an opportunity to review the minutes January 12, 2018 Final Meeting Minutes. Dr. Geiger asked the board to consider revising lines 200 and 201 to read (rather than employee veterinarians), to ensure that employee veterinarians would not be responsible for implementing the plan of patient medical records disbursements.

On a motion duly made by Dr. Hagee, seconded by Dr. Chris Michetti and approved unanimously it was: Resolved to approve the January 12, 2018 meeting minutes as amended.

Board Member	Yea	Nay	Recuse
Dr. Hal Geiger	X		
Dr. Rachel Bergartt	X		
Dr. Chris Michetti	X		
Dr. James Hagee	X		

Dr. Hagee advised the board that the letter drafted to the Governor regarding the PDMP referenced in the previous meeting minutes was not sent, depending on the discussion today with Laura Carrillo and Dr. Delker, a determination will be made if it is appropriate for a letter to be sent.

TASK: Dr. Hagee to sign and send the minutes to staff.

Deviated to Agenda Item 7 – Ethics

Dr. Hagee asked if there were any ethics violations to report. There were no ethics violations reported from the board or staff.

Deviated to Agenda Item 8 – Regulation Requirement

Dr. Bergartt advised the board the AVMA has a site with resources on it that they put together to help veterinarians with diversionary resources, it is what the AAVSB is also utilizing. Staff will work on updating the Board's website with the AVMA link.

Dr. Tamara Rose joined the teleconference.

TASK: Staff will post AVMA link on the Board of Veterinary Examiners website.

Deviated to Item 5 - Budget

Deputy Director Sara Chambers joined the meeting and reviewed with the board FY17 third quarter numbers, the board is on par with previous year's expenses. The board then reviewed the fee analysis

provided by the division. Deputy Director Chambers reviewed with the board that the division has set a guideline to have one year of expenses on hand, and that the director is proposing a fee increase. Discussion centered on the fact that the division does take the input of the board into consideration, what is asked of the board is to look at all of the factors and advise if what the division is proposing is reasonable. The board thanked Deputy Director Chambers for reviewing with them the division's proposal, and voiced that in 2016 the board had advised the division that a fee increase, especially for the technicians was not something they wanted to happen, yet, the division raised the fees. The board also advised this current proposal conflicts with the principals discussed during the last fee increase and does not address concern previously expressed by the board. The board is also concerned with the acceleration of the reserve the department is expecting from the profession, and that the division is proposing fee increases to those least able to bear that burden. The board reiterated that they want to protect new veterinarians and new veterinarian technicians from licensing fee increases. Deputy Director Chambers thanked the board for their frank comments, advising that, being able to share services between all licensing programs does reduce overall expenses and that we are all share the same goal of providing adequate regulatory services to veterinarians and the clients of veterinarians. Deputy Director Chambers agrees with the Director that a fee increase is needed, and encouraged the board, before adjourning this meeting, to look at where the fee increases are proposed and make some recommendations as to where those increases would create less harm and a potential compromise can be made. The board expressed their appreciation for the services that the department offers and the board acknowledged that investigations is a huge part of overall expenses, and that the profession itself is causing a lot of investigative expenses. Deputy Director Chambers thanked the board again for their comments and advised she would take their comments back to the Director.

Agenda Item 6 – Investigative Report

Jeanette (Nina) Akers joined the meeting and introduced herself as the new Investigator for the Board of Veterinary Examiners. Between December 21, 2017 and April 13, 2018 the division opened two (2) matters and closed five (5) matters. Two (2) matter remains on-going and/or under active investigation. There is one veterinarian on probation and he/she is in compliance with the terms of their license probation as of the day of this report. The board had no questions concerning the report.

Marilyn Zimmerman, RP Paralegal II joined the meeting. On a motion made by Mr. Hal Geiger, seconded by Dr. Rachel Berngarth, and approved unanimously, it was: Resolved to go into executive session in accordance with AS 44.62.310(c)(2) and the Alaska Constitutional right to privacy provision, for the purpose of discussing Case No. 2017 – 000935 and Case No. 2017-001088.

Board Member	Yea	Nay	Recuse
Dr. Hal Geiger	X		
Dr. Rachel Berngarth	X		
Dr. Chris Michetti	X		
Dr. Tamara Rose	X		
Dr. James Hagee	X		

Off the record at 10:11 AM

On the records at 10:30 AM

131 On a motion duly made by Dr. Hal Geiger, and seconded by Dr. Chris Michetti, and approved
132 unanimously, it was: Resolved to accept the consent agreement for Cailin L. Slachta.
133

Board Member	Yea	Nay	Recuse
Dr. Hal Geiger	X		
Dr. Rachel Berngarth	X		
Dr. Chris Michetti	X		
Dr. Tamara Rose	X		
Dr. James Hagee	X		

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135 On a motion duly made by Dr. Hal Geiger, and seconded by Dr. Rachel Berngarth, and approved
136 unanimously, it was: Resolved to accept the voluntary surrender of the veterinary technician license
137 for Lynley S. Pair.
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Board Member	Yea	Nay	Recuse
Dr. Hal Geiger	X		
Dr. Rachel Berngarth	X		
Dr. Chris Michetti	X		
Dr. Tamara Rose	X		
Dr. James Hagee	X		

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140 Dr. Hagee opened discussion regarding off label use of medication. The board discussed that the
141 intent of regulations is to turn decisions over to the practitioners, and that the board would only be
142 involved is if there is definite negligence. As a state board, there is not a way to change the federal
143 regulations for the extra drug label act, and that as a state board, is only charged with determining
144 what is and is not negligence on the state level, not on the federal level. The criteria in making that
145 decision is, what would an ordinary member of our state practice do? Our statutes only address
146 negligence in relations to the average veterinarian. Do we need to address extra label use in statute
147 or regulation? The board does not believe there is a need to so.

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149 TASK: Dr. Hagee will sign the consent agreement and the voluntary surrender documents and send
150 the signed documents to staff.

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152 **Deviated to Agenda Item 9 – Annual Report**

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154 Dr. Hagee advised that he had completed the narrative statement and the goals and objectives and
155 had forwarded those the prior licensing examiner. Staff will follow-up, update the report and send it
156 out for approval. The board discussed the AAVSB 2018 Annual meeting, and discussed that the
157 AAVSB pays all expenses for attendees.

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159 On a motion duly made by Dr. Rachel Berngarth, and seconded by Dr. Tamara Rose, and approved
160 unanimously, it was resolved: Resolved that Dr. Rachel Berngarth and Dr. Hal Geiger will attend the
161 2018 AAVSB Annual meeting in Washington D.C.
162

Board Member	Yea	Nay	Recuse
Dr. Hal Geiger	X		

Dr. Rachel Berngarth	X		
Dr. Chris Michetti	X		
Dr. Tamara Rose	X		
Dr. James Hagee	X		

TASK: Staff will update the annual report and send it out to the board for review and approval.

TASK: Staff will complete travel authorization forms for Dr. Rachel Berngarth and Dr. Hal Geiger.

Agenda Item 10 – Board Business

The board scheduled the following meetings.

October 12, 2018 in Anchorage

January 25, 2019 Teleconference

May 17, 2019 Teleconference

The board reviewed two questions from licensees that were sent in to the licensing examiner. A licensee inquired if all continuing education hours could be completed by taking on-line courses. Dr. Tamara Rose advised this question had come up a couple of years ago and there is nothing in regulations that specify a specific number of on-line courses, so all continuing education can be completed online as long as they are documented hours. Staff will respond to the licensee.

The next question the board asked about CBD oil for pets. Consumers do have access to this oil, the board is unable to make recommendations at this point. We are unable to prescribe it, there is not much that can be said at this time. There is nothing outside of anecdotal evidence regarding CBD oil, there is no scientific evidence. The board is unable to make any recommendations at this point. Dr. Hagee will draft the response letter, the board will review it and it will be sent out from the division on Board of Veterinary Examiners letterhead.

The board decided that it is too soon to elect new officers, Dr. Hagee will continue on as Chairman, and Dr. Geiger will continue as Secretary. Election of new officers will happen again when current board members leave the board.

TASK: Staff will respond to licensee regarding online continuing education.

TASK: Dr. Hagee will draft response letter re: CBD for board review and send it to staff.

TASK: Staff will send out CBD letter to the board for review and approval. Once approved, staff will put the letter on division Board of Veterinary Examiners letterhead and send to the licensee.

The board adjourned for lunch at 11:20 AM

The board was back on the record at 1:30 PM

Agenda Item 10 – Board Business

Dr. Hagee advised he would be limiting the VCPR discussion to half an hour. Dr. Robert Gerlach, State Veterinarian and Mr. Michael Murphy with the FDA joined the teleconference. Chairman Hagee thanked both gentlemen for joining the meeting for this discussion. Dr. Gerlach reviewed with the board that due to the concern of antibiotic resistance impacting human and animal health, the FDA had initiated the veterinarian feed directive to address the use of antibiotics in food producing

animals for both major and minor species. Before antibiotics can be used in either feed or water there has to be a valid veterinarian feed directive established by the veterinarian and the feed mill or producer of the feed, and the client. There needs to be a clear veterinarian client/patient relationship established and the rule for that is the important part; Alaska is large, there is not an even distribution of veterinarians across the entire state; in relation to our hatcheries, the state needs to have a definition for the client patient relationship that would allow aquacultures and veterinarian consultation so there is access to proper treatments to maintain the proper care and humane treatment of those fish species that they have in the hatcheries.

Dr. Hagee reviewed the proposed regulation language broad based VCPR that was presented and tabled during the last board meeting.

Dr. Murphy addressed the relationship between the VCPR and the Veterinary Feed Directive rule, in order to write a lawful VFD a VCPR needs to exist, and the second part is that a VCPR is required for the vet to prescribe or dispense a prescription drug – veterinary feed directive drugs are a third category of drugs, they are their own legal category, and advised that a state VCPR must be in place to supersede the federal law. At the federal level, a VCPR relationship cannot be established by telephone, video or electronic means, veterinarians have to visit the premises. The state VCPR can establish electronic means for that relationship. There was brief discussion about how the state law allowing electronic communication, would supersede the federal law only if the following three items were established within the state law; Engage the client, have sufficient knowledge of the facility, and provide for necessary follow-up or care.

It was discussed that currently there is nothing in the regulation that indicate what a veterinarian client patient relationship is in Alaska, why do we need to react to the federal regulation, why do we need to create this language?

Dr. Gerlach indicated that his concern was from the federal standpoint, the relationship can only exist if the veterinarian has recently seen and is personally acquainted with the keeping and care of the animals. It does not just affect a few cases, this definition affects any veterinarian who practices remotely. The definition of how recently the animal has been seen to keep the relationship active is what the board needs to define for the feed directive and the VCPR. Does the board want to allow the courts to determine the definition of recently? Putting a time frame in regulation, to establish being acquainted with the animal and the care and feeding of the animal would create what that definition is.

Chairman Hagee tabled this discussion to the next meeting and thanked Mr. Gerlach and Mr. Murphy for joining the teleconference.

TASK: Staff will forward to the board the document from the January Board meeting Dr. Hagee reviewed during this discussion.

TASK: Board will consider how to address the federal VCPR in relation to the feed directive and in relation to those who practice remotely to determine if there is a need to define the term recently in regulation. Once this is decided, the board will either revise and move forward the proposed regulation reviewed during the January board meeting to the regulations specialist, or, continue to table for further discussion.

Ms. Laura Carrillo, Board of Pharmacy Supervisor and PDMP Manager and Dr. Delker, Legislative Liaison for the AKVMA joined the meeting. Chairman Hagee, again set a half hour time limit for these two discussions.

Ms. Carrillo provided a quick overview of the PDMP program, the program started in 2008, and mandatory registration began July of 2017. On April 22, 2018 a 25.00 registration fee will be due at renewal. HB159 added the ability for the board to discipline licensees who are not in compliance with the PDMP in AS 08.98.050. The vet board is unique in that continuing education hours are not required for renewal, the board is only required to establish resources licensees can access to identify an animal owner who may be at risk for abusing or misusing an opioid. Dr. Geiger addressed the biggest problem is that veterinarians have access to HIPPA protected data. Ms. Carrillo advised that the PDMP information is not considered a HIPPA covered entity. When licensees interact with the PDMP the HIPPA requirements do not apply. Laura asked the board if they have received an actual legal opinion of the ability to review the animal owner's medical information. Dr. Hagee stated that there has been no legal representative on the board.

Dr. Delker reviewed with the board that he met with Dr. Butler. Dr. Delker had reached out to Dr. Butler due to the concern that the pharmacy board was not listening to veterinarians have in reducing the opioid issues. We have looked at other states, more and more states are exempting veterinarians from the PDMP requirements. Veterinarians are willing to be a due their part, but if we are not contributing to it significantly, it's hard to be a part of the reduction in opioid misuse. The program is set up for people who have software that seems to interact with the PDMP platform. Most veterinarians are sole proprietors, very few have certified technicians that would qualify to use the reporting software, it takes valuable time away from the practitioner to complete the reporting requirements, and that takes away from client care. If there is a way to alter the law so that veterinarians are exempted from this law, or a way to ease compliance for veterinarians is what we are moving forward with. Going forward, we would like to pursue being excluded from the PDMP requirements.

Dr. Hagee thanked Ms. Carrillo and Dr. Delker for their comments and the information they provided to the board. The board briefly discussed drafting a letter to an interested legislator. Dr. Delker stated that he will be contacting Senator Micciche, and will work on getting the members of the AKVMA to contact their individual legislators regarding this issue.

Dr. Geiger inquired on the status of the letter. Dr. Hagee advised he will rework the original letter and send it to Dr. Geiger and Mr. Delker for review, then have it put on State Board stationery and sent out.

TASK: Board will consider if a legal opinion is needed to confirm that veterinarians have the legal ability to review an animal owner's medical information.

TASK: Board will consider if obtaining diversionary statistics from the investigative unit is necessary.

TASK: Dr. Hagee will re-draft the letter to the Governor, that was started from the January board meeting and send that letter to staff.

TASK: Staff will send the draft letter from Dr. Hagee to the board for review and comments, the letter would also need to be reviewed and receive approval from Director McCullough prior to being sent to the Governor.

TASK: Once the board letter receives approval from Director McCullough, staff will put the board approved letter on division Board of Veterinary Examiners letterhead and forward it to the Governor.

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Agenda Item 11 – Adjourn

Dr. Hagee asked if there was any other matters to be brought before the board, hearing none, he adjourned the meeting at 2:35 PM

Respectfully Submitted:

Patricia Lonergan, Licensing Examiner

Approved:

Dr. James H. Hagee, Chairman
Alaska Board of Veterinary Examiners

Date